

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EMANUEL ANTHONY MILLER,)	No. C 10-5746 LHK (PR)
)	
Petitioner,)	ORDER DIRECTING
)	PETITIONER TO FILE
v.)	
)	
MATTHEW CATE,)	
)	
Respondent.)	
)	

On December 16, 2010, Petitioner, a state prisoner proceeding *pro se*, filed the instant habeas corpus petition, pursuant to 28 U.S.C. § 2254. That same day, the Court sent a notification to Petitioner informing him that he did not file a completed in forma pauperis application, nor did he pay the required filing fee. The Court provided a copy of the in forma pauperis application, along with a return envelope, and a notification that the case would be dismissed if Petitioner failed to pay the fee or file a completed application with supporting documentation within thirty days. On January 13, 2011, Petitioner filed an amended petition for writ of habeas corpus, but did not otherwise respond to the Court's notification regarding the filing fee.

On January 31, 2011, the Court dismissed the instant action for failing to file an in forma pauperis application or pay the filing fee. Over ten months later, on November 8, 2011, Petitioner wrote to the Court, requesting the appropriate forms so that he could file a motion requesting leave to late file his petition. On November 30, 2011, the Court mailed blank forms

1 for Petitioner to complete a petition for writ of habeas corpus, as well as an application for leave
2 to proceed in forma pauperis.

3 On January 24, 2012, Petitioner filed a motion for permission to present and file late
4 claims. The Court considers Petitioner's motion as a motion to re-open this action. Petitioner
5 explains that he did not understand that he needed to pay a filing fee or file an application to
6 proceed in forma pauperis.

7 Petitioner is thus directed to file either the \$5.00 filing fee, or a completed in forma
8 pauperis application, **within thirty days** of the filing date of this order. Upon receipt of the
9 filing fee or completed in forma pauperis application, the Court will rule on Petitioner's motion
10 to re-open. Should Petitioner fail to comply with this order, the motion to re-open will be
11 denied, and this case will remain closed.

12 IT IS SO ORDERED.

13 DATED: 4/26/12


LUCY H. KOH
United States District Judge